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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/526,841	08/18/2005	Paul Anthony Richards	41952/313231	9358

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EXAMINER

ABDOSHI, SAMIR

ART UNIT	PAPER NUMBER
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3641

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/526,841	Applicant(s) RICHARDS, PAUL ANTHONY	
	Examiner SAMIR ABDOSH	Art Unit 3641	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14 is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☒ Claim(s) 4-13 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This communication is a non-final rejection on the merits in response to a preliminary amendment received on March 3rd, 2005.

Claim Objections

1. Claim 15 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim has not been further treated on the merits.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Baron (USP 4,379,453).

Regarding claim 1, Baron teaches a fluid pressurization device including:

a pressure container **(12)** defining a fixed volume, in use;

a first resiliently deformable inflatable bladder **(100)** for containing a fluid under pressure, that is located within the pressure container;

a second resiliently deformable inflatable bladder **(116)** for containing a fluid under a relatively higher pressure than the pressure of the fluid in the first bladder and that is located within the pressure container adjacent the first bladder (upon collapsing of capsule **118**, a gas is

Art Unit: 3641

released within the second bladder that pressurizes it to expand and pressurize the first bladder);
and

releasable holding means **(104, 106)** for initially holding the second bladder at a fixed volume when inflated to thereby hold the fluid contained therein under pressure, and for releasing the second bladder thereby permitting the second bladder to expand and exert a force on the first bladder for pressurizing the fluid contained therein.

Regarding claim 3, Baron teaches that the first bladder has an opening in which a valve is located (see Figure 6), through which fluid can be introduced into and discharged from the first bladder.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baron (USP 4,379,453).

Regarding claim 2, Baron teaches a fluid pressurization device having a first and second bladder, but fails to expressly teach that the first bladder contains a volatile fluid under pressure and the second bladder contains a non-volatile fluid.

Although Baron fails in this regard, it is unclear how such a limitation is critical to the invention, particularly since it apparatus is directed to a fluid pressurization device and not to a volatile system. The volatility of the fluids within the bladders has no bearing on the function of the

Art Unit: 3641

pressurization of the system, and therefore such a limitation fails to set forth any criticality in its use. Consequently, the limitation will be considered to be a design preference for the pressurization device, thereby rendering it an obvious variant capable of being performed by an artisan of routine skill, since the element provides no mechanical function to the invention. The Applicant is reminded that design changes which have no mechanical function cannot be relied upon to patentably distinguish the claimed invention over prior art, as it has been ruled by the courts to be an unpatentable advance¹.

Allowable Subject Matter

6. Claim 14 is allowed.

7. Claims 4-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAMIR ABDOSH whose telephone number is (571) 270-5799. The examiner can normally be reached on Monday through Friday 8:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (571) 272-6873. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

¹ see *In re Seid*, 73 USPQ 431 (CCPA 1947)

Art Unit: 3641

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SIA/

/Troy Chambers/

Primary Examiner, Art Unit 3641